#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3597 OF 2006

Basavraj @ Raju Kalappa
Bhorshetty .. Applicant

Versus

The State of Maharashtra .. Respondent.

Mr.A.P.Mundergi, Senior Advocate with Niranjan Mundergi for applicant

Ms.M.H.Mhatre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th October 2006

P.C.

. Applicant is accused No.3 in C.R.No.201

of 2006 registered with Shahupuri Police Station, Kolhapur for offences punishable under section 286 read with 34 I.P.C. and Sections 5 and 6 of Explosive Substance Act.

2. Applicant has been arrested at the instance of complainant who is Police Officer attached to Shahupuri Police Station. It is alleged that on 30th August 2006 information was received that one Phiroze is illegally possessing some explosive substance, used for making some fire crackers and is also preparing said crackers with his wife. Raid was conducted and both of them were arrested and material including manahshild powder, carpet powder, paper and ready crackers were seized vide panchanama.

3. Applicant is arrested on the basis of the statement of the co-accused. As far as statement of complainant police officer is concerned, it is alleged that this substance/powder was found when the raid took place at the premises of Phiroze.

However, the applicant is in the business of selling these substances and he is operating from Karnataka State in Chikodi Taluka, Belgaum Dist.

4. As far as applicant is concerned all that is alleged is that he has supplied this material to the co-accused Phiroze. The applicant does not prima facie dispute the nature of business but as far as the offences alleged against him are concerned, he disputes that there was any dealing with co-accused or the acts committed by Phiroze are committed by him merely because he possesses a licence to deal in the alleged explosive substance.

5. In my view, merely because investigations are pending, the applicant’s role is supply of material used in making of the fire crackers. The applicant may have been operating without licence and, therefore, prima facie, liable to be punished under the relevant laws, whereunder, he is required to obtain a licence. Further, the

offences punishable under section 286 is bailable. However, that aspect need not be gone into in details, more so, when licence and other documents are already seized. The applicant is agreeable to abide by such conditions including reporting at the police station within the State of Maharashtra, once a fortnight as also furnishing local surety. Hence, following order:-

i) The applicant arrested in connection with C.R.No.201 of 2006 registered with Shahupuri Police Station shall be enlarged in the sum of Rs.25,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer, Shahupuri Police Station once in a fortnight till

conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for

expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)